

Understanding Copyrights

What is copyright?

Copyright is protection given to authors (composers, artists, etc.) under title 17 of the U.S. Code for their intellectual works. Copyrights refer to the right to make copies of a work, create derivative works, distribute copies of a work including selling the work, and to perform or display a work publicly. For more complete information about copyrights please go to: <http://www.copyright.gov/>.

How do I get copyright?

Copyrights are automatic. If you produce something in a “tangible form of expression” then you have copyright. That includes written works, sound and video recordings, paintings, sculptures, etc.

How long does copyright last?

Copyright lasts the life of the original author plus 70 years from the author’s death. Works made for hire have a copyright length of 95 years from the date of publication or 120 years from the date of creation, whichever is shorter.

What constitutes works made for hire?

This generally refers to works made for and in behalf of an organization. If you are unsure of whether you or the company you work for owns the copyrights to your work, you should contact the legal or intellectual property branch of the organization and ask them.

Do I need to register my copyrights?

You do not need to register a copyright in order to obtain copyright, however, you may register your copyright with the United States Copyright Office (<http://www.copyright.gov/>). This is something you should do if you wish to challenge someone in court for copyright infringement.

Do I need to note my copyright on my work?

No. But you can if you choose. Rules for copyright notation can be found at <http://www.copyright.gov/>.

Can I copyright my idea?

No. Copyrights do not extend to the following: works that are not in a fixed tangible form (ex. anything that is still in your head), facts, titles, slogans, familiar symbols or designs, lists of contents (including ingredients), ideas, processes, methods, concepts, devices. For a more complete list consult the U.S. Copyright Office <http://www.copyright.gov/>.

Protections for processes, slogans, etc. may be given for a period of time under patent or trademark laws but you must apply to receive these protections. For more information go to the U.S. Patent and Trademark Office: <http://www.uspto.gov/> .

Can you (START2FARM) help me with my intellectual property?

We are happy to tell you what the laws are and to help you find the information you need. However, if you wish to register your work or apply for a patent or trademark, you should consult an attorney who specializes in intellectual property. We cannot give you legal advice, search for patents or copyrights on

your behalf, or make recommendations about whether or not you should apply for intellectual property protections.

Can I use other people's work?

You can use other works if they are in public domain, have a creative commons license that permits use, if you have permission from the author/ copyrights holder, or if you observe the doctrine of Fair Use.

What is the public domain?

Works are in the public domain if they are no longer under copyright protection. This includes works that have never been copyrighted (previous to copyright laws) or that have simply run their time. (For example, any works whose authors died before 1940 are now in the public domain.)

What is a Creative Commons license?

A Creative Commons license allows an author to dictate the terms of use. This is useful for people who want their works to be used by others. Creative Commons licenses can be created at this site:

<http://creativecommons.org/>. In the Creative Commons you develop the license using any combination of the following permissions:

- Attribution (by): others may use your work but they must give you credit.
- Share Alike (sa): others may use your work to create derivative works but must put their new works under a similar license. This means that others will be able to use the new works as well.
- Non-Commercial (nc): others may copy, distribute, or publicly perform your work as long as they do not do it for commercial gain.
- No Derivative Works (nd): others may copy, distribute, or perform your work but they cannot make a derivative work based on your work.

For more information about Creative Commons please visit the site listed above.

What is Fair Use?

The doctrine of Fair Use is part of copyright law (sections 107-118, title 17, U.S. Code) that establishes parameters for the use of copyrighted works. Fair Use allows people to use copyrighted works for the purposes of criticism and comment (including satire), scholarship, research, and teaching. Fair Use parameters are based on the following:

- The purpose and character of the use (is it educational or commercial?)
- Nature of copyrighted work (highly creative, highly factual?)
- Amount and substance of the portion of the work used (are you only quoting a line? Is that line the most significant portion of the work?)
- Effect of use on the market or value of the work (Please note- this protects copyright holders from losing their profits to a derivative work. It does not protect them from criticism.)

There is no set formula for Fair Use. Each case is reviewed under the Fair Use doctrine separately. You are closer to Fair Use if your use of a work is non-commercial, the original work is factual in nature, you are only using a small portion of the work, and you do not try and cut the original work out of the market. You are closer to infringement if your use is commercial, the work is creative in nature, you are using a large portion of the original work, and your activities will damage the market value of the original work. If

you are working within the parameters of Fair Use you do not need to obtain permission to use someone's work but you do still need to give credit.

How do I get someone's permission to use their work?

You contact them and ask them. Often people will allow you to use their work as long as you give proper credit. If someone asks you to credit them in a particular way you should follow that request to the letter.

Do I need to give credit for a work in the public domain?

For the sake of your own reputation, you should give credit for any work you use that is not yours. If you take or omit credit for anything borrowed from another source you are committing plagiarism regardless of the copyright status of the work.

If you have any other questions about copyrights, intellectual property or START2FARM.gov please contact me:

Jorie Porter

Marjorie.Porter@ars.usda.gov

301-504-6020